

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FAREPORTAL INC. D/B/A CHEAPOAIR,

Plaintiff,

-against-

OPINION CORP. D/B/A PISSEDCONSUMER,

Defendant.  
-----X

08 CIV

AFFIRMATION  
OF  
TEDD KESSLER

Tedd Kessler, an attorney duly admitted to the courts of the State of New York, and the United States District Court for the Southern District of New York, affirms, under penalty of perjury, as follows:

1. I am the attorney for the plaintiff herein and am fully familiar with the facts and circumstances surrounding this matter.

2. I submit this affirmation in support of plaintiff's application seeking a temporary restraining order and a preliminary injunction.

3. The following declarations are submitted in support of plaintiff's application:

Harsh Sood

Ilya Zherebetskiy

4. Cease-and-desist letters were sent to the defendant on June 17 and June 19, 2008. See, exhibit "F", attached hereto.

5. On June 30, 2008 at approximately 1:50 p.m. I provided defendant pissedconsumer notice of the plaintiff's application for a temporary restraining

order by e-mail through its website. A copy of said notice is attached hereto as exhibit "G". The notice informed the defendant that an application for a temporary restraining order and preliminary injunction would be made at the United States District Court for the Southern District of New York at 500 Pearl St, New York, New York at approximately 4 p.m. Your affirmant is unable to find any telephone number for the defendant.

5. Exhibits referred to in the brief are as follows and attached hereto:

- Exhibit A. Google search results for Cheapoair;
- Exhibit B. Homepage for cheapoair.pissedconsumer.com;
- Exhibit C. Homepage for cheapoair.com.pissedconsumer.com;
- Exhibit D. Copy of the application for trademark registration dated March 6, 2008 with notification of application receipt;
- Exhibit E. Printouts from defendants' webpage which show the hyperlinks when the cursor is on the hyperlink.

6. Exhibits referred to in the Declaration of Harsh Sood are as follows and are attached to said declaration:

- Exhibit A. Certificate of Incorporation of Fareportal Inc.
- Exhibit B. Certificate of Assumed Name
- Exhibit C. Copy of trademark/service mark application for "cheapoair.com the only way to go!!" with receipt.

7. Exhibits referred to in the Declaration of Ilya Zherebetskiy are as follows and are attached to said declaration:

Exhibit A. Listing of descriptive metatags

Exhibit B. Listing of keywords metatags

Exhibit C. Comparison of the metatags on the Cheapoair side versus the metatags used on the pissedconsumer website for Cheapoair.

8. No previous application has been made for the relief sought herein.

WHEREFORE, it is respectfully requested that this Court issue a temporary restraining order and preliminary injunction.

Dated: New York, New York  
June 30, 2008

---

Tedd Kessler

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In addition, Cheapoair offers different travel resources, travel tips, it provides airline codes, news, travel glossary and many other things available on Cheapoair.com.

**Consumer Rating: 21 Review Points**

#### Best Consumer Reports:

- Cheapoair.com reviews - TRAVEL
- Cheapo air misleading website
- CheapoAir is the worst, stay away from them
- CheapOair is horrible.
- Cheapo Air agent failed to make promised cancellation, I'm stuck !

Date	Cheapoair Reviews	Hits
06/20	8 Months still not refund	98
06/20	CheapOair is very sorry; yes they are!	96
06/12	Cheapoair charges an enormous amount of fee	153
06/04	it will take more than ten words	159
05/23	Cheapoair Takes Forever to Complete a Refund	111
05/21	Cheap O Air-AWFUL	390
05/18	Class action lawsuit on CheapOair.com	407
05/02	Cheapoair sold non-existing flights	348
	<u>weight loss</u> <u>cabbage soup diet</u>	
	<u>low carb diet</u> <u>diet plan</u>	
	<u>medifast 2x faster</u> <u>lose weight</u>	
04/24	CHEAPOAIR WILL COST YOU	308
04/23	Trying to book a flight with CheapO	356
04/19	Cheapo Air- Nothing short of Fraud!	415
02/01	Cheapo air misleading website	1613
01/30	Cheapo Air agent failed to make promised cancellation, I'm stuck !	633
01/06	CheapoAir is the worst, stay away from them	793
10/30	Cheapoair Customer Service	352
10/22	Renet Cheapoair Customer Service	266
09/11	AVOID CHEAPOAIR	514
09/01	CheapOair is horrible.	735
08/23	Cheapoair.com Reviews	455

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**Consumer Rating: 4 Review Points****Best Consumer Reports:**

- Cheapoair.com Fraud
- CheapoAir has truly horrible service
- Cheapoair ripp off!
- Excellent prices and service

Date	Cheapoair.com Reviews	Hits
06/20	Excellent prices and service	44
06/13	Cheapoair ripp off!	57
05/21	CheapoAir has truly horrible service	321
04/11	Cheapoair.com Fraud	336

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- Watchersweb
- iPostNaked
- Allied Interstate
- PrivacyMatters
- Primerica

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OMB No. 0651-0009 (Exp 09/30/2008)

## Trademark/Service Mark Application, Principal Register TEAS Plus Application

### To the Commissioner for Trademarks:

**MARK:** cheapOair.com the only way to go!! (stylized and/or with design, see mark)

The literal element of the mark consists of cheapOair.com the only way to go!! The color(s) grey and red is/are claimed as a feature of the mark. The mark consists of the letters "cheap" in grey lowercase lettering with a red curved underline, the letter "O" in red capital lettering, the letters "air" in grey lowercase lettering, the letters ".com" in red lowercase lettering, the words "the only way to" in grey lowercase cursive lettering, and the word "go!!" in red lowercase cursive lettering.

The applicant, Fareportal, Inc., a corporation of New York, having an address of Suite 1201, 213 West 35th Street, New York, New York, United States, 10001, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

**For specific filing basis information for each item listed below, click directly on the class heading (s).**

International Class 039: Providing links to web sites of others featuring travel; Travel and tour information service; Travel and tour ticket reservation service

If the applicant is filing under Section 1(b), intent to use, the applicant declares that it has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(b), as amended.

If the applicant is filing under Section 1(a), actual use in commerce, the applicant declares that it is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

If the applicant is filing under Section 44(d), priority based on foreign application, the applicant declares that it has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on a specified foreign application(s). 15 U.S.C. Section 1126(d), as amended.

If the applicant is filing under Section 44(e), foreign registration, the applicant declares that it has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and submits a copy of the supporting foreign registration(s), and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

The applicant hereby appoints Yuval D. Bar-Kokhba, Esq and Nikolaos E. Diamantis, Esq. of Garbarini & Scher, P.C., 432 Park Avenue South, New York, New York, United States, 10016-8013 to submit this application on behalf of the applicant.



Correspondence Information: Yuval D. Bar-Kokhba, Esq  
432 Park Avenue South  
New York, New York 10016-8013  
ybar-kokhba@garbarini-scher.com (authorized)

A fee payment in the amount of \$275 will be submitted with the application, representing payment for 1 class(es).

#### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /yuva bar-kokhba/ Date Signed: 03/06/2008

Signatory's Name: Yuval D. Bar-Kokhba, Esq.

Signatory's Position: Attorney of record

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**Received Your Trademark/Service Mark Application,  
Principal Register and Your Trademark/Service Mark  
Application, Principal Register Was Submitted Successfully  
Success!**

We have received your application and assigned serial number 77422393 to your submission. We will send an Email summary of the application data to "ybar-kokhba@garbarini-scher.com", which will be your official confirmation of receipt. For electronically-submitted applications, the USPTO will no longer mail an additional paper filing receipt. However, since e-mail is not always reliable, please print out and save this notice. If the USPTO later determines that no filing date was justified, your submission will be returned, and your filing fee will be refunded. You would then have the opportunity to cure the deficiency, and re-file the application. Thank you.

**NOTE:** Do NOT send a duplicate paper copy of this filing to the USPTO, as it will interfere with the proper processing of the electronic submission and will result in your being charged for two filings, neither of which can be refunded.

Thank you.

TEAS Support Team

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In addition, Cheapoair offers different travel resources, travel tips, it provides airline codes, news, travel glossary and many other things available on Cheapoair.com.

Consumer Rating: 19 Review Points

### Best Consumer Reports:

- Cheapoair.com reviews - TRAVEL
- Cheapo air misleading website
- CheapoAir is the worst, stay away from them
- CheapOair is horrible.
- Cheapo Air agent failed to make promised cancellation, I'm stuck !

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01/30	Cheapo Air agent failed to make promised cancellation, I'm stuck !	610
01/06	CheapoAir is the worst, stay away from them	753
10/30	Cheapoair Customer Service	344
10/22	Renee Cheapoair Customer Service	256
09/11	AVOID CHEAPOAIR	496
09/01	CheapOair is horrible.	717
08/23	Cheapoair.com Reviews	435

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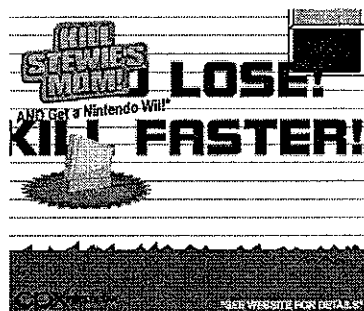
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07/26 Cheapoair.com reviews - TRAVEL

2747

07/26 Cheapoair.com, Arijit opinion - Travel Agents

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- Delta ( 4 items )
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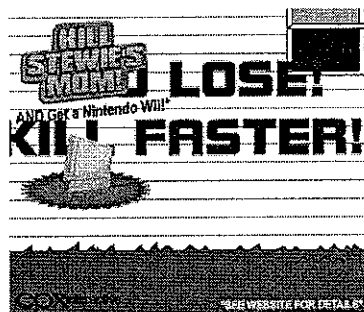
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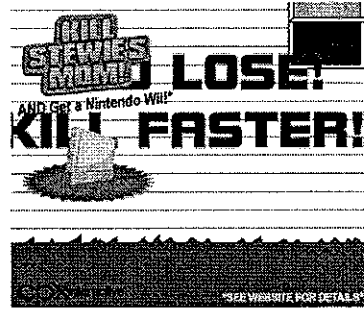
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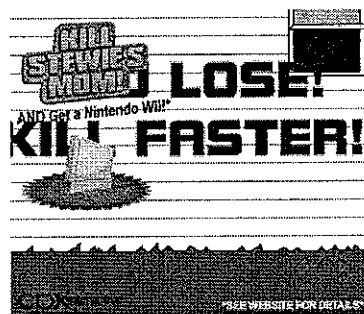
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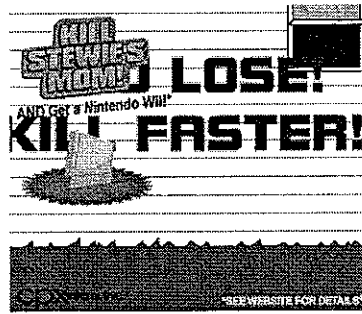
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You are instructed to immediately cease and desist in the use of the name CheapoAir in any commercial manner including, but not limited to, the domain <http://cheapoair.pissedconsumer.com>. Your failure to comply with this demand by June 25, 2008 will leave our client no choice but to enforce their trademark rights by any means available to them, including the imposition of a law suit seeking an injunction against your use of the CheapoAir trademark, monetary damages, and attorneys fees.

Please be guided accordingly.

Yours truly,  
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June 17, 2008

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